

Case: Hercules  
Case Number: CR-FY97-058  
Person Interviewed: Mickey Wayne Tiner, President  
Texas Boat and Barge  
TNRCC Office: Region 12 - Houston  
Location: Texas Barge and Boat  
4115 East Flood Gate Road  
Freeport, Texas  
Date/Time: August 6, 1997 8:00 am

On August 6, 1997, [REDACTED] Brian Lynch interviewed Mickey Tiner at the Texas Boat and Barge Office located at 4115 East Flood Gate Road, Freeport, Brazoria County, Texas. Tiner was advised that Lynch was a criminal investigator with the TNRCC and that he was investigating allegations involving Hercules Marine Services Corporation also located in Freeport, Texas.

Tiner advised that he is the owner and president of Texas Boat and Barge (TBB) and that he has operated this business since 1992. He advised that prior to starting TBB he worked for Hercules for about 20 months from 1990 until September 1991. Tiner advised that he was the Project Manager at Hercules and was in charge over everything at the facility. Tiner advised that the Hercules Marine Service is a small part of the Hercules company and that the main business they conduct is offshore oil drilling as Hercules Offshore.

Tiner advised that when he worked for Hercules it was accounted for by Hercules as "Rig 7" to make it appear to be an offshore oil producing rig. He advised that Hercules used cash flow from the marine service yard barge cleaning and repair business to "beef up" the offshore corporation to make it look good on paper to potential investors.

Tiner advised that Hercules Offshore operated five platforms and one jack-up rig when he was there. He advised when all five platform rigs were operating they would lose about \$30 thousand per month. He advised when the jack-up rig operated it made about \$30 thousand per month. Tiner advised that the marine service yard grossed about \$5 million in the 20 months that he worked there and that it was \$350 thousand in the black when he left. He advised that the Hercules Offshore was about \$440 thousand in the red when he left. Tiner advised he gained this information from Daryl Guidry at the Hercules corporate office in Houston who gave him a copy of the profit and loss report for Hercules in 1991.

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Tiner advised that when he left Hercules an investment group known as the Elder Group out of New York owned about 70- 80% of the Hercules Corporation, General Electric owned about 10% of it, and Tom Seward the Hercules CEO owned about 5-10% of the business. Tiner advised that Malaysian investors bought out the Elder Group investors about two to three years ago.

Tiner advised that Tom Seward was the "big boss in charge" at Hercules. He advised that Tom Horde was promoted from Offshore Superintendent to Vice President over the entire company. Tiner advised that after he left, Horde and Seward became more involved at the marine service yard. He advised that shortly before he left Hercules, Horde was officing at the marine yard and Seward was coming to the yard to meet with Horde as they were setting Horde up for the move to the Houston corporate office.

Tiner advised that Hercules had a Board Meeting every month and that he would attend. He advised that the officers of the company and the investors would be present, he would give a report as to the marine service yard activity, and then he would be asked to leave the meeting.

Tiner advised when he worked at the Hercules marine yard he met Larry Ballinger. Tiner advised that Ballinger came by the yard with Tom Horde to see about putting in a fueling dock. He advised that Ballinger and Horde are good friends.

Tiner advised that the TBB barge cleaning superintendent Juan Gonzalez has been working for him for the last two to three years. He advised that prior to this Gonzalez worked at Hercules for about 15 years.

Tiner advised that wastewater disposal at Hercules is questionable. He advised that when he started with Hercules in 1990 [REDACTED] He advised that Dow Chemical canceled their contract with Hercules when they learned of the dumping. Tiner advised that Charles Taner was the cleaning superintendent at Hercules when the dumping was occurring. He advised that R.L. Taylor was the Dow representative who asked Tiner how Hercules disposed of the wastewater they generated from barge cleaning operations. Tiner advised that he asked Taner this question and [REDACTED]. Tiner advised that Jimmy Jackson was the Hercules Night Foreman and that he talked to Jackson about this matter. Tiner advised that Jackson told him he was dumping the wastewater at night. Tiner said that he told Jackson to stop the dumping and then Tiner set up an arrangement to dispose of the wastewater at Empak, an authorized disposal facility.

Tiner advised that he discussed this night time dumping activity with Tom Seward and Tom Horde due to the fact that it caused them to lose the Dow business. Tiner advised that they told him to get new procedures in place and get the Dow business back. Tiner advised that Dow did an environmental audit of Hercules after they made arrangements for proper disposal methods with Empak and resumed doing business with Hercules.

Tiner advised that when the dumping was going on, Hercules was billing customers for disposal, but dumping the wastewater as a means to increase profits.

Tiner advised that in 1990 and 1991 he properly disposed of about 750,000 gallons of wastewater per year generated at Hercules. He advised that he learned from Empak representative Clifford Smith that Hercules disposed of the following approximate amounts of wastewater: 1992 - 250,000 gallons; 1993 - 295,000 gallons; 1994 - 0 gallons; 1995 - 326,000 gallons. Tiner advised that Hercules was cleaning chlorinated solvent barges and that the wastewater was to be disposed of as hazardous waste. He advised that Smith told him that in about April 1995, Empak stopped taking wastewater from Hercules because of Hercules not paying their disposal bill.

Tiner advised that in 1995, he spoke with R.L. Taylor who was then a representative for Dixie Carriers. Tiner advised that Dow sold their barge fleet to the Kirby Corporation who formed Dixie Carriers to run the barge business which services Dow. Taylor told Tiner that he asked Jimmy Jackson, who was a supervisor at Hercules at this time, how many barges per year Hercules cleaned for Dixie. Taylor told Tiner that Jackson said they cleaned about 300 barges per year and that they generated about 10,000 gallons of wastewater per barge cleaned. Tiner advised that Taylor told him that Hercules charged Dixie Carriers about \$600,000.00 in 1995 for disposal of about three million gallons of wastewater.

SI Lynch asked Tiner about the regulations concerning the control of emissions from cleaning barges that last contained material with a vapor pressure greater than 0.5 pounds per square inch absolute (psia). Tiner advised that the first deadline for this regulation known as "Reg V" was in May 1995. He advised that an extension to the deadline was granted by the state until November 1996, due to lobbying by two large barge cleaning companies, Platzer and Southwest Barge. Tiner advised that it was common knowledge in the barge cleaning industry that the regulations to control volatile vapor emissions from cleaning barges was coming into effect in November 1996.

Tiner advised that clients or companies that need barges cleaned audit the cleaning facility before using them. He advised that Kirby Corporation uses Waste Control Management (WCM), Hollywood uses WCM, National Marine does their own audits, Ingram does their own audits, ACBL does their own audits, and BASF does their own audits.

Tiner advised that he had lunch with Mark Hanna of BASF prior to the November 1996 deadline for controlling volatile emissions from barge cleaning in about September or October 1996. He advised that he was making a sales call on Hanna trying to get the BASF barge cleaning business for TBB. Tiner advised that Hanna was okay with using Hercules to clean BASF barges. Tiner advised that he asked Hanna what he thought about the November 1996 deadline and the impact it would have on Hercules since they did not have a vapor control system. Tiner advised that Hanna gave a grin and said, "we don't think that will ever happen" in reference to the regulation coming into effect.

Tiner advised that it was common knowledge in the Freeport area that Hercules did not have a vapor control system for cleaning barges. Tiner advised that Hanna knew that Hercules did not have the required vapor control system because Tiner told him so in during the September-November 1996 time frame. He advised that Dixie Carriers had stopped using Hercules to clean barges after November 1996 because they did not have a vapor control system in place. Tiner advised that two to three months ago, after the November 1996 deadline, Harvey Osmond of Dixie Carriers in Houston, Texas, told him that Hercules had not started operating the thermal oxidizer at their facility to control volatile emissions. Tiner advised tht he had seen the thermal oxidizer at Hercules and that it had been there a long time but had never been operated.

Tiner advised that when he made the complaint to TNRCC about barges being cleaned at Hercules in violation of Reg V he obtained the list of barges cleaned at Hercules from a neighbor to Hercules, Bob Casale. Tiner advised that he learned that Hercules was still cleaning cyclohexane barges from the fact that someone purchased cyclohexane from Hercules that they had removed from barges cleaned at Hercules. Tiner advised that he obtained this information form Caesar Tezeno of Jeppco Fuels, Inc. He advised this occurred in January 1997.

Tiner advised that there have been numerous complaints against Hercules for nuisance odors from their barge cleaning activity. He advised that prior to November 1996 they were "grand fathered" and the emissions themselves were not illegal. He advised that after November 1996 the emission of volatile vapors was illegal.

Tiner advised that Hercules will not care if they close down their marine service yard because they never intended to make it a major barge repair business. He advised that the main reason Hercules had this business was as a place for a land base for their offshore operations and to subsidize the offshore business financially. He advised that at one time Hercules had all of the barge cleaning business in the Freeport area, but since they did not update equipment they lost business. As an example he referenced Dixie Carriers did not want to be associated with a business that received complaints for emissions from cleaning their barges. Tiner advised that while he worked at Hercules when he would ask for monies to upgrade cleaning equipment Seward and Horde would tell him no, there is no money for the marine service yard to upgrade equipment.

Tiner advised that right after the TNRCC Inspector Becky Ohler went to Hercules and talked with then Hercules Marine Services Manager Larry Ballinger about BASF barges cleaned at Hercules, Ballinger telephone BASF and told them that Hercules could no longer clean cyclohexane barges because they had been doing so illegally. SI Lynch asked Tiner how he knew this. He advised that Juan Gonzalez told him that an individual involved with the tug boat and a cyclohexane barge that was at Hercules at the time of the call provided this information. He advised that this individual told Gonzalez that after Ohler departed, Ballinger packed up his things from his office and left right after telling BASF about the problem. The individual advised Gonzalez that BASF told the tug boat captain to immediately remove the BASF cyclohexane barge from Hercules and take it to TBB.

Tiner advised that he received a call from Robert Peters of BASF on this day. He advised that Peters told him that BASF was sending TBB a cyclohexane barge. Peters asked him if TBB could clean this barge and asked if their vapor recovery system could handle cyclohexane. Tiner advised that he told Peters yes.

Tiner advised that he has also been in touch with Bob Ingram of BASF. He advised that Ingram is in purchasing and that he was trying to rectify the problem with Hercules. Tiner advised that Mark Hanna and Robert Peters were the individuals at BASF dealing with Hercules and that even after the discovery by TNRCC that Hercules was illegally cleaning BASF barges these two individuals continued using Hercules to clean barges, other than cyclohexane barges.

Tiner advised that he learned from David Terry of VIP Fueling that recently Mark Hanna contacted Terry about trying to set up a fleet system to handle BASF barges which would include cleaning these barges. Tiner advised that Terry told him that Larry Ballinger also called Terry about wanting to start a fueling and barge cleaning business.

Tiner advised that Hercules replaced Larry Ballinger with Jimmy Jackson as Manager of the marine services yard.

#### PERSONAL INFORMATION

Signed:



Date prepared:

September 11, 1997